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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-first session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 42nd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 24 November 1999, at 11.10 a.m.

Chairperson: Mrs. BONOAN-DANDAN

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* The summary record of the first part (closed) of the meeting appears as document E/C.12/1999/SR.42.

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The public part of the meeting was called to order at 11.10 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Initial report of Cameroon (E/1990/5/Add.35; E/C.12/Q/CAMER/1; written replies to the list of issues, prepared by the Government of Cameroon (document without a reference number)) (continued)

1. At the invitation of the Chairperson, the members of the delegation of Cameroon resumed their places at the Committee table.

2. Mr. AHMED, referring to number 4 of the list of issues (E/C.12/Q/CAMER/1), said that, according to a United States State Department report, the Cameroon National Commission on Human Rights and Freedoms had, in spite of a shortage of funds, conducted investigations into alleged violations by the judiciary, security personnel and other government officials. Was he correct in assuming that the results of its investigations had not yet been published?

3. Secondly, he noted that a recent Commonwealth Secretariat report stated that the economic crisis in Cameroon had affected the realization of fundamental human rights, and had recommended that the National Commission should undertake human rights awareness training for all ministries responsible for drafting policies that had a major impact on the enjoyment of economic, social and cultural rights. The Commonwealth Secretariat had gone on to offer to organize a workshop on such rights for officials from the relevant government ministries and non-governmental organizations (NGOs). The offer had, however, not been taken up. That state of affairs should be rectified as soon as possible.

4. Mr. NGOUBEYOU (Cameroon) said that his delegation had been gratified to note the Committee's interest in the examination of its initial report (E/1990/5/Add.35). Turning to the questions raised, he said that the possibilities for citizens to invoke the provisions of the Covenant in courts were not always obvious. Certain Committee members had noted the fact that it was impossible for Cameroonian citizens to invoke the right to health. The right to food was another case in point. That lack of possibilities was not a result of the Government's ill will but stemmed rather from the fact that the rights in question were not backed up by any implementing legislation. In contrast, the right to housing could be invoked in court, especially in cases of eviction.

5. The new national Constitution entailed reforming all the regulations and laws in force, since those that did not conform therewith were no longer applied in courts. It might be asked why the Government had been so slow in remedying the shortcomings of its legislation. The delay was caused by the fact that the draft reform overlapped with a further project to harmonize the two conflicting constitutional mechanisms inherited from the period of colonization, whereby different rules and regulations were applied in the former British and French territories. The Government was faced with a gargantuan task and needed to come up with positive results as a matter of urgency.

6. Turning to the subject of discrimination between men and women, he said that equality between the sexes was proclaimed in the Constitution and in all Cameroon's enacted law, such as the Penal Code, the Labour Code and the Electoral Code. It was nevertheless true to say that everyday practice did not always conform with the legislation in force. The provisions of certain laws were clearly discriminatory and no attempt had been made to conceal that fact. Women's inferior situation was worsened by customary practices. That did not mean that the State was unwilling to come to grips with inconsistencies between enacted law and custom. Where the two were in dispute, custom gave way to the law. When traditional courts were called upon to take a decision, for example in divorce cases, they required the consent of both parties.

7. The CHAIRPERSON pointed out that Members' questions had related to very specific matters which required specific responses. The delegation had admitted that although the written law prevailed in Cameroon, its legislation discriminated against women. The Committee was primarily interested in what Cameroon was doing to combat such legislative discrimination.

8. Mr. PILLAY, endorsing the Chairperson's remarks, said that in addition to referring to the adverse effect on women of customary practices, the report also cited a number of anachronistic legal provisions. Why did such provisions continue to exist?

9. Mr. NGOUBEYOU (Cameroon) said that his Government was unable to eradicate ancestral customs and colonial practices overnight. Deep-rooted attitudes could only be abandoned gradually.

10. Mr. GRISSA stressed that the Committee was not hostile to Cameroon, but simply wished to obtain information regarding economic and social conditions so that it would be in a better position to judge how the situation was evolving from the standpoint of article 2, paragraph 1.

11. Mrs. JIMÉNEZ BUTRAGUEÑO noted that Cameroon had ratified the Convention on the Elimination of All Forms of Discrimination against Women and the Covenant without reservation. Accordingly, what measures had it taken to amend its legislation which discriminated openly against women? How was the situation evolving?

12. The CHAIRPERSON stressed that the Committee simply wished the delegation to provide detailed information enabling it to form a clear picture of the problems encountered by Cameroon in complying with its obligations under the Covenant.

13. Mr. NGOUBEYOU (Cameroon) said that from the very outset his delegation had stated its readiness to be frank and to cooperate with the Committee, as was also borne out by its written submissions. However, he could not describe legislation that simply did not exist. The new amended Constitution had been adopted fairly recently, in 1996, and the process of bringing legislation into line with the very innovative provisions contained therein was still under way. One of the major challenges for legislators in the near future would certainly be the amendment of legislation that discriminated against women. In that connection it should also be noted that under the new Constitution international treaties ratified by the Government formed an integral part of the Constitution and thus took precedence over customary law. The new Constitution

provided for the establishment of a number of bodies to assist in the legislative reform, including a constitutional council. Pending their establishment the Supreme Court was responsible for the task.

14. Minorities were considered to be those ethnic groups who on account of their small number and culture were threatened with extinction. They included the Pygmies who were found in the southern and eastern regions of the country. The government policy towards such minorities was to bring them together into communities so as to ensure their protection and full integration in Cameroonian society.

15. On the subject of corruption, he was reluctant to be drawn into any discussion of the status of Cameroon on that score. No country could claim to be completely free of corruption. All forms of corruption both passive and active were liable to penalties under Cameroon's Criminal Code. A number of bodies had been set up to tackle the problem, including the National Inspectorate, which had nationwide competence, as well as the general inspectorates which came under the supervision of different ministerial departments. Thus far, those bodies had not achieved the desired results, so further measures were being implemented to give fresh impetus to the campaign against corruption.

16. With regard to the independence of the judiciary, he said that in accordance with the Constitution, the President of the Republic was also President of the Higher Judicial Council and thus the guarantor of the independence of the judiciary; in that capacity he was also responsible for appointing judges. The new Constitution provided for the separation of the judicial and executive branches. The upgrading of the status of the judiciary had been accompanied by a considerable increase in the salaries of judges so as to protect them against subornation. As a result the judiciary was now fully independent, as recent reports in the Cameroonian press had testified.

17. The National Commission on Human Rights and Freedoms was a joint commission. Its membership comprised representatives from civil society, including teachers, lawyers, members of the clergy and representatives of NGOs and trade unions. All its members sat in an individual capacity and on an honorary basis. The question as to why the National Commission had thus far failed to publish the outcome of its investigations implied that there might have been some interference on the part of the Government. However, that was not possible, since the Government was not represented on the National Commission, nor would it wish to prevent the publication of findings by a commission that it had established by its own volition. One hypothesis was that the findings had not been published owing to a lack of funds, but he was not in a position to confirm or deny that. He nevertheless agreed that it would be useful if its findings were made generally available. The Committee's concern about such matters would be brought to the attention of the Government and of the National Commission in the delegation's report on the outcome of the current dialogue.

18. The Government welcomed the organization of workshops and seminars on human rights in general, not just on those protected by the Covenant. It had recently acceded to a request by the Cameroonian High Commissioner for Human Rights to host a regional seminar on the right to development in the near future. The Government was on good terms with domestic NGOs,

whose assistance proved invaluable in ensuring the enjoyment of human rights. Moreover, since those NGOs operating at grass-roots level were closely in touch with the population, they often made useful proposals to the Government..

19. The Government considered the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights to be of equal importance. That was only logical given that by virtue of their ratification they formed an integral part of the Constitution, where no one provision could take precedence over any other.

20. Polygamy was a legacy of ancestral traditions which, as Committee members had rightly pointed out, had social, religious and economic dimensions. In view of its complex and highly sensitive nature the Government had embarked on an in-depth consideration of the issue with a view to drafting a text that would withstand the test of time.

21. Mr. CEVILLE said that in many countries the president was empowered to appoint judges, although such appointments were normally subject to the approval of the highest legislative body. However, he knew of no country other than Cameroon where the President, in his capacity as President of the Higher Judicial Council, was also allowed to impose sanctions on judges. Normally, as the information in the written replies seemed to imply, that was the prerogative of the relevant legislative body and required the application of certain legal and administrative procedures, such as a vote by a two-thirds majority of the members of parliament, before a judge could be dismissed. How could the delegation speak of the full independence of the judiciary when, to all effects, by virtue of the extensive presidential powers the judiciary still appeared to be accountable to the executive branch .

22. With regard to the justiciability of the provisions of the Covenant, the written replies had merely mentioned those rights that could not be invoked in court. He would welcome some concrete examples of exactly which rights were in fact justiciable.

23. Mr. PILLAY said the delegation had asserted that a Supreme Court decision took precedence over customary inheritance laws which discriminated against women. However, according to a report by International Women's Rights Action, discriminatory customary inheritance laws still prevailed in Cameroon and prevented women from inheriting land or property. That report seemed to be corroborated by the fact that although 66 per cent of rural workers in Cameroon were female, only 1 per cent of the land in the country was owned by women. He asked for further clarifications in that regard.

24. Mr. WIMER ZAMBRANO said that the delegation had referred to the need to harmonize existing legislation with the new Constitution given the numerous discrepancies between them. How long did the delegation expect it would take to carry out such a major undertaking? He was particularly interested in the Civil and Commercial Codes because in those it would not merely be a question of amending a few articles; the entire structure of the Codes might need to be reviewed.

25. Mr. NGOUBEYOU (Cameroon) said it bore noting that the President of the Republic could appoint judges only following consultations with members of the Higher Judicial Council. Furthermore, as far as imposing sanctions on judges was concerned, the relevant disciplinary

procedures must be correctly applied. First, the case of the judge in question would be heard before the full membership of the Higher Judicial Council; subsequently any sanctions proposed by the Council would be handed down by the President of the Republic, who, in his capacity as President of the Council, acted as its spokesman. Judges subject to disciplinary procedures were entitled, like other civil servants, to a defence lawyer.

26. Provisions of the Covenant that could be invoked in Cameroonian courts included those relating to the right to work, the right to weekly rest, the right to strike, the right to social security, the right to an adequate standard of living and the right to housing. In the past, customary laws had prevented women from inheriting land or property. One of the arguments often put forward in favour of the customary law, was a desire to keep property in the family. However, with the support of women's NGOs, many of whose members were lawyers, young women were now better equipped to defend their inheritance rights and the situation was gradually improving. There had even been instances of male descendants being denied their inheritance in favour of female descendants.

27. He was not in a position to estimate how long it would take to complete the process of harmonizing legislation with the provisions of the new Constitution. Such information could be furnished in due course, if necessary.

28. Mr. WIMER ZAMBRANO requested the delegation to reply to Mr. Ceville's question concerning the number of cases in which the Covenant had actually been invoked in the courts.

29. Mr. NGOUBEYOU (Cameroon) said that the delegation was unable to provide statistics at the current session, but would do so in its second periodic report.

30. The CHAIRPERSON invited Committee members to put questions on articles 6-10 relating to numbers 6-38 of the list of issues.

31. Mr. AHMED, referring to article 7, said that the 1998 Department of State report to which he had referred stated that the Cameroonian Labour Code provided for a single nationwide minimum wage arbitrarily set by the Ministry of Labour, rather than through collective bargaining. That wage had stood at US$ 40 per day in 1998, a figure the authorities acknowledged was insufficient to provide an adequate standard of living. Would it not be fairer for the minimum wage to be determined by negotiation between the unions and employers, possibly under the Ministry's aegis?

32. He invited the delegation to comment on an NGO report claiming that workers on plantations, usually owned by large corporations, were treated like latter-day slaves and obliged to work every day of the week from 5 a.m. to 11 p.m. without interruption, in abysmally poor conditions and without special clothing to protect them from poisonous chemicals.

33. Mr. ANTANOVICH, endorsing Mr. Ahmed's remarks, requested the delegation to specify any major action taken by the Government in the previous three years to improve the lot of plantation workers.

34. Mr. PILLAY requested an answer to number 40 of the list of issues in respect of forced evictions. One NGO had reported specific cases in which people were summarily evicted from their land without compensation, to enable highways to be constructed. Such action constituted a breach of the Covenant; in that connection he drew the delegation's attention to the Committee's General Comment No. 7, concerning forced evictions. The right to an adequate standard of living was also being jeopardized by the depletion of coastal fishing reserves and deforestation.

35. Concerning article 9, he cited the 1999 report of the Economist Intelligence Unit in which it was claimed that the relatively low average age of the Cameroonian population meant that the National Social Insurance Fund (CNPS) was in surplus, with cash inflows from pension contributions exceeding payouts in the form of pensions. Yet the Committee had heard of cases in which, through corruption, mismanagement or both, pensioners were being denied their social security rights. What remedial action were the authorities taking to ensure pensioners' reaped the benefit of their contributions?

36. Mr. CEAUSU, referring to article 6, sought clarification of the apparent discrepancy between the estimated 5.1 million active population and the 690,000 permanent salaried workers (para. 30 of the report). Those unaccounted for were presumably either unemployed or working in the informal sector. The Committee needed to know more about the country's main industrial activities in order to determine the source of income of the remaining 4.5 million, who presumably needed jobs in order to make ends meet. He would like to know more about how the right to work was protected in the context of Cameroon's subsistence economy.

37. It could be inferred from the written replies that the right to form a trade union was jeopardized by the fact that each application had to be personally approved by the Minister for Territorial Administration. Precisely what number of members was deemed sufficient for the establishment of a viable association or trade union of civil servants?

38. The written reply to number 28 of the list of issues was unsatisfactory. The reason given for the Government's failure to recognize the National Union of Teachers of Higher Education - a matter also raised in other international forums - was that the union had failed to comply with national laws. But the Committee could hardly assess the validity of the Government's argument without being told what form the union's non-compliance had taken.

39. Mr. CEVILLE said that Cameroon was also answerable to the International Labour Organization in regard to its compliance with trade-union-related rights. His original question had been whether the rights set forth in the Covenant were constitutional rights in Cameroon.

40. Mr. NGOUBEYOU (Cameroon), replying to the question why the Ministry of Labour determined the minimum wage, said that given the country's financial situation, consultations on the wage level in a given sector were held with regional and subregional institutions, generally followed by consultation of the social partners. The latter often held divergent views and the authorities could not delay the process indefinitely while those differences were ironed out. In any event, the minimum wage was never set in stone, but could be adjusted upwards to keep pace with economic conditions and market price indices.

41. Replying to a question from Mr. Ahmed, he said that plantation workers belonged to the liberalized agriculture sector and complied with the terms of their contracts. Much of their work was seasonal and based on desired yields. Workers sometimes undertook to work extra hours in order to meet harvesting requirements. The employer and worker often agreed that the latter would sacrifice a monthly wage in exchange for piecework, supplying a determined amount of labour over a limited period, thus earning huge sums. Such work was monitored by inspectors who ensured that it was performed within the legal framework, in accordance with acceptable hygiene standards and with the Labour Code. Evidently, the authorities were not always aware of what occurred on plantations. Inspectors were in short supply, for which reason the Government had, in the context of the African Regional Labour Administration Centre (CRADAT), established training units for inspectors and monitors, so that the whole national territory would shortly be covered.

42. Mr. BAHANAG (Cameroon), replying to Mr. Pillay's question on forced evictions, said the expropriation of land needed for constructing highways, railways or new housing complexes had not been subject to compensation in the past. However, a legal unit had been established in every ministry in order to ensure compliance with the Covenant, so that uncompensated eviction was now indeed a thing of the past.

43. Replying to a question put at the previous meeting, he said that from 1992 to1994 Cameroon had been in the throes of a severe economic crisis. That had begun to ease in 1996 and the country had posted a 5 per cent growth rate for 1996-97, whereupon the Asian crisis had again halted the positive trend. However, it was hoped that the growth rate for 2000 would be in the order of 6 per cent, with a resultant improvement in the standard of living of all Cameroonians.

44. Mr. NGOUBEYOU (Cameroon) said that until a few months previously there would have been some truth in Mr. Pillay's comment concerning unpaid pension claims. Pensioners had brought the situation to the attention not only of the Cameroonian authorities but also of the National Commission on Human Rights and Freedoms, which had obliged the National Social Insurance Fund to settle virtually all pensions arrears. The Government was ensuring that the Fund discharged its obligations to the very few beneficiaries who had not yet been paid.

45. Mr. BAHANAG, (Cameroon), responding to a question from Mr. Ceausu, said that Cameroon was an agricultural country with a poorly developed industrial sector. It produced cash crops, revenue from which was dependent on the international economic climate and price stability.

46. Mr. NGOUBEYOU (Cameroon) said that those of Cameroon's active population not included among the 690,000 salaried workers lived off the land. Plantation workers were involved in agro-industry, which produced goods mainly for export, while the traditional agricultural sector engaged in subsistence farming, selling any surplus on the local market. Others earned their living from the growing urban informal trading sector and the liberal professions.

The meeting rose at 1 p.m.